IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10668 OF 2004

Subhash Vasant Kulkarni ....Petitioner

Versus

Nutan Gujrati Vidyalaya Samiti and Ors. ... Respondents.

Mr. V.K. Pradhan for the petitioner.
Mr. C.R. Sonawane, Assistant Government Pleader, for respondent Nos. 3 and 4.

CORAM: **KSHITIJ R. VYAS, C.J.** &
DR. D.Y. CHANDRACHUD, J.

DATE: **APRIL 25, 2006**.

P.C.

The petitioner who was serving as a Clerk with respondent Nos.1 and 2 has filed this petition making a grievance that the said respondents have till date not settled his retirement dues including Provident Fund, Leave Encashment, arrears of Fifth Pay Commission, Gratuity and Pension.

2. Respondent Nos.1 and 2, though served, have not filed their appearance.

3. The learned counsel appearing for the petitioner has invited

our attention to the various letters annexed to the petition whereby respondent Nos. 1 and 2 were directed by the Deputy Director of Education as well as the Education Officer to forthwith make the payment of arrears including the provident fund dues to the petitioner. In the letter dated 24th February, 2004, addressed by respondent Nos. 1 and 2 to the Advocate appearing for the petitioner, in paragraph 5 they have admitted that Rs.74,789/- had been received on account of Provident Fund amount from the Education Officer (Secondary). The school management has in fact retained that amount and has not paid the same to the petitioner. In fact, by a letter dated 1st July, 2003, respondent No.3 has directed respondent No.4 i.e. the Education Officer (Secondary), to take steps to make the payment of provident fund amount to the petitioner failing which the payment shall be adjusted from the non-salary grant.

4. Since the order passed by the competent authority has not been complied with by respondent Nos. 1 and 2, while disposing of this petition, the following directions are issued.

(i) Respondent No.4, Education Officer (Secondary), Zilla Parishad,

Alibag, Raigad, shall within a period of four weeks from today compute the dues payable to the petitioner after due notice to respondent Nos.1 and 2.

(ii) Respondent Nos.1 and 2 within a period of two weeks from the date of the receipt of the communication from respondent No.4 shall pay the amount due and payable to the petitioner.

(iii) As regards the pensionary benefits to the petitioner, respondent Nos.1 and 2 shall prepare the pension papers and forward the same to the fourth respondent within two weeks from the date of the communication and the fourth respondent in turn shall process the same and forward the same to the concerned authority. The entire process shall be completed within a period of 12 weeks from today.

(iv) In the event of non-compliance of this order by the respondents and particularly respondent Nos. 1 and 2, the third respondent shall take all steps including withholding of non-salary grant or derecognition of the school.

5. Petition is disposed of in the aforesaid directions.

CHIEF JUSTICE

DR. D.Y. CHANDRACHUD, J.